

Remarks**Amendments**

The claims of the present application have been amended in accordance with the proposed revision of 37 CFR 1.121.

The claims of the application under consideration, specifically independent Claims 1, 18 and 32, have been limited to a method wherein the fluorophore floresces at near infrared wavelengths. Such near infrared fluorophore compounds are described in the paragraph bridging pages 9 and 10 of applicants' disclosure and are utilized in Examples 1 and 2. Claim 1 also has been amended to specify that the article comprises a layer of a polymer composition. This amendment is supported by original Claim 4. Claim 4 and similar Claim 21 have been amended to specify that the polymer composition is selected from polyesters. This amendment of Claims 4 and 21 is supported by original Claims 7 and 24, especially when considered in view of Example 1 and 2 of the application wherein the operation of the invention is demonstrated when using polyesters. The Examiner will note that original Claim 21 was redundant in view of the recitation "a polymer composition" in original Claim 18. The other claim amendments pertain only to correcting or changing claim dependency.

Claim 17 has been amended so that the thickness determination refers to Claim 1 rather than Claim 5. This amendment has been made to overcome the Examiner's objection directed to original Claim 17.

Claim Rejections – 35 USC § 102(b)

Applicants believe that the amendments of Claims 1 and 18 overcome the rejection of the claims based on 35 U.S.C. 102(b) in view of the disclosure of U.S. Patent 4,477,521 (Lehmann et al.). The disclosure of Lehmann et al. concerns

".....the coloring of at least one layer of such a body with a dye fluorescing in the visible region, which dye preferably does not absorb in the visible region and the fluorescence of which is stimulated by ultraviolet radiation."
[Column 1, lines 29-33.]

Lehman does not disclose applicants' novel method which now utilizes a fluorophore that floresces at near infrared wavelengths. Accordingly, the withdrawal of the §102(b) rejection is respectfully requested.

Claim R jections – 35 USC § 103(a)

Applicants believe that the amendments of Claims 1 and 18 also overcome the rejection of the Claims 12-16 and 29-31 based on 35 U.S.C. 103(a) in view of the disclosure of Lehmann et al. in combination with the disclosure of U.S. Patent 4,919,855 (Thomas). As is pointed out above, Lehman et al. does not disclose applicants' novel method which utilizes a fluorophore that floresces at near infrared wavelengths. Applicants further submit that Lehman et al. does not suggest the use of a fluorophore that floresces at near infrared wavelengths in a method for determining the thickness of a polymer layer. Thus, Lehman et al. does not render obvious the method defined by the amended claims of the present application.

Like the Lehman et al. reference, the Thomas patent does not disclose or suggest the use of a fluorophore that floresces at near infrared wavelengths in a method for determining the thickness of a polymer layer. Thus, the combined disclosures of Lehman et al. and Thomas does not and cannot render obvious the method defined by the amended claims of the present application. In view of the shortcomings of the Lehman et al. disclosure, the disclosure of the Thomas patent for the reasons set forth in the Office Action is not sufficient to establish the obviousness of applicants' novel method. In other words, the Thomas patent does not provide the essential disclosure that is absent from the Lehman et al. reference, i.e., the use of a fluorophore that floresces at near infrared wavelengths in a method for determining the thickness of a polymer layer.

Allowable Subject Matter

Applicants acknowledge with appreciation the Examiner's allowance of Claim 32 and the indication that Claims 11 and 28 would be allowable if rewritten in independent form. Applicants' believe that the amendment of Claim 32 should not change its allowed status but simply renders Claim 32 consistent in scope with the other claims now in the application. For the reasons provided above, it is applicants' respectful submission that the claims from which Claims 11 and 28 depend are not subject to the §§ 102(b) and 103(a) rejections and therefore are allowable along with Claims 11 and 28.

Summary

In summary, it is applicants' respectful submission that the §§ 102(b) and 103(a) rejections have been overcome for the reasons set forth above. Accordingly, the withdrawal of the rejections and an early allowance of the application are earnestly solicited.

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CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Kristi Huff
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12/8/03
Date